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E.O. 12958: DECL: 01/22/2016
TAGS: [KAWC](#) [PREL](#) [RGOV](#) [HR](#)
SUBJECT: GOTOVINA - SHIFTING FROM MANHUNT TO DEFENSE FUND

REF: A. A) 2005 ZAGREB 1940

1B. B) 2005 ZAGREB 1939 AND PREVIOUS

Classified By: Ambassador Ralph Frank, reasons 1.4 (b) & (d)

11. (C) SUMMARY AND COMMENT: With the manhunt over, GoC attention has shifted to managing public expectations regarding the defense of ICTY indictee Ante Gotovina. While still unofficial, the GoC clearly intends to fund at least a portion of Gotovina's defense team, as he was acting in his capacity as a general in the Croatian Army at the time of the alleged crimes. The GoC will also provide the defense with the same access to state archives given to ICTY investigators and prosecutors and offer expert information during the trial through an Amicus Curia. The public still does not appear to understand that neither the Croatian state nor Operation Storm is on trial and will likely look for direct (and inappropriate) GoC involvement in Gotovina's defense strategy. The GoC, whose past rhetoric is in no small part responsible for these public misperceptions, will have to respond carefully to these political pressures while clearly maintaining its policy of total ICTY cooperation.

12. (C) Thanks to these same misperceptions, the media and certain misguided pundits continue to portray the supposed U.S. role in Operation Storm as the key to Gotovina's vindication. While in fact completely irrelevant to the defense, we expect these stories will continue to appear throughout the trial. Post does not intend to comment on the U.S. role in Operation Storm except to point out that Gotovina is on trial for his individual actions, not the military operation. END SUMMARY AND COMMENT.

STATE ROLE IN GOTOVINA'S DEFENSE: FUNDS - YES, DIRECTION - NO

13. (SBU) The GoC has not taken official action to fund Gotovina's defense, according to Assistant Minister of Justice for ICTY Cooperation Jaksa Muljagic, but clearly plans to do so. The GoC is already funding the defense of Ivan Cermak and Mladen Markac, whose indictment may be joined with Gotovina's in the near future. According to Muljagic, the GoC will likely pay approximately 20,000 euro per month to each of two attorneys. This may be supplemented by funds from a recently-formed private foundation called the "Fund for the Truth about the Patriotic War."

14. (SBU) Head of the ICTY's Zagreb liaison office Thomas Osorio is surprised that Gotovina's attorneys did not seek

funding through the Tribunal before asking for GoC assistance. He speculates, though, that they are unwilling to open Gotovina's assets up to court scrutiny, which is required before receiving ICTY funds. Government funding of defense, he said, is common with Hague indictees. From the Tribunal's perspective, he added, the key issue will be how the GoC and the defense team behave.

15. (SBU) According to Osorio, the GoC must not control Gotovina's defense team in any way despite the funding. The danger, he said, is that attorneys will begin to represent the state rather than their defendant, in which case Chambers will dismiss them. The Tribunal twice warned GoC-funded defense counsel Ante Nobile of this during the trial of Tihomir Blaskic, but the GOC now appears to understand the necessary boundaries. Minister of Justice Vesna Skare Ozbolt told PolOff shortly after Gotovina's arrest that the GoC would only be involved in elements of the defense that go beyond the individual, such as background on Operation Storm and the state of the country at the time.

16. (SBU) Osorio added that the division between the defense team and any Amicus Curia/friends of the court that the GoC appoints must be "a brick wall." The state, Osorio emphasized, is not party to this indictment, despite political rhetoric to the contrary, and Croatia must not attempt to use an Amicus Curia to present its case or Chambers will dismiss the Amicus as irrelevant. The Tribunal, he said, is sensitive to this matter as it was created to judge individual and not collective guilt. Assistant Minister of Justice Muljagic has clearly heard Osorio's warning on this point. While acknowledging that a team is already at work preparing Amicus material, Muljagic told PolOff that it will only be used to provide context for the court in matters requiring expert assessment.

THE DEFENSE TEAM: FOCUS ON FUNDS, CREDENTIALS

17. (SBU) With no set financing, Gotovina's attorneys have still not been able to file for accreditation before the ICTY, so the members of the defense team are still uncertain. Most likely, Chicago-based attorney Luka Misetic will lead the team. He may be joined by another American - former ICTY prosecutor Greg Kehoe. As U.S. attorneys, Misetic and Kehoe must declare their financing to and be licensed by the Treasury Department's Office of Foreign Asset Control.

18. (SBU) Gotovina's Croatian attorneys include Marijan Pedisic and Marin Ivanovic, both of whom will likely have problems receiving ICTY accreditation. Pedisic is subject of an ongoing investigation into his involvement in procuring the forged passports used by Gotovina and Hrvoje Petrac. Marin Ivanovic was the lead figure in "Operation Hague," a late 90s effort by the GoC to obstruct the work of the ICTY.

FRANK